REMARKS

Claims 1, 2, 5, 12, 13, 16, 23, 24, 27, 34, 35, 38, 45, 46, 49 and 56 are pending in the present application, with claims 3, 4, 6-11, 14, 15, 17-22, 25, 26, 28-33, 36, 37, 39-44, 47, 48, 50-55 and 57 previously canceled without prejudice.

Claims 1, 2, 12, 13, 23, 24, 34, 35, 45 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable by Sasaki et al. in view of Downs et al. Note that although paragraph 1 on page 3 of the Office Action lists only Sasaki and Downs, the arguments include a reference to Iwata et al. (page 4 of the Office Action). Because Applicants pointed out in the previous response that Iwata was not prior art, and the Examiner considered the arguments persuasive (page 2 of the Office Action), Applicants assume that Iwata is not part of the rejection. Claim 56 was rejected under 35 U.S.C. §102 as being anticipated by Downs. Note that although the basis of the rejection for claim 56 is not clear from the Office Action, because only Sasaki was mentioned in the rejection, Applicants assume that the rejection of claim 56 is on the basis of 35 U.S.C. §102. It should also be noted that although claim 57 was similarly rejected, Applicants wish to point out that claim 57 has been canceled. Claims 5, 16, 27, 38 and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sasaki in view of Lin. Reexamination and reconsideration of the application in view of the following remarks is respectfully requested.

Claims 1, 2, 12, 13, 23, 24, 34, 35, 45 and 46 were rejected under 35 U.S.C. §103(a) as being unpatentable by Sasaki in view of Downs. This rejection is respectfully traversed.

Claims 1, 12, 23, 34 and 45 recite "permitting creator registration on the basis of a *judgment by an operator* of the distribution server when the *quality of the stored content item* for an examining purpose is higher than a predetermined level."

The Office Action acknowledges that Sasaki does not disclose this limitation, but states that Downs discloses this limitation in reference 810 in FIG. 8.

However, Downs fails to disclose, teach or suggest "permitting creator registration on the basis of a judgment by an operator of the distribution server when the quality of the stored content item for an examining purpose is higher than a predetermined level." Reference 810 in FIG. 8 of Downs is a Content Quality Control block. However, this block relates to management of quality from an *audio processing perspective*. Throughout Downs, quality control is viewed as ensuring that signal quality does not degrade due to watermarking, compression, etc. For example, "Content 113 can then be played back to verify that the compression produces the required level of Content 113 quality." (Column 17, lines 40-42.) "Content 113 . . . subject to audio processing that preserves content quality." (Column 21, lines 8-11.) "An array of structures, each representing different quality levels of the same sound recording." (Column 59, lines 61-62.)

In contrast, the present invention examines the value of the content item as a work of art. In other words, the present invention does not examine signal quality. Because subjective, artistic value judgments are made by operators and not machines, claims 1, 12, 23, 34 and 45 base registration on "*a judgment by an operator*" as to whether the "*quality of the stored content item*" is higher than a predetermined level."

Additionally, claims 1, 12, 23, 34 and 45 recite "providing . . . an authoring tool to said creator terminal when permission for creator registration is given to said creator terminal."

The Office Action acknowledges that Sasaki does not disclose this limitation, but provides no evidence that Downs discloses this limitation. Indeed, Downs contains no disclosure at all related to an authoring tool. The Office Action does state that Downs discloses determining automatic compression parameters in accordance with the genre of music (see FIG. 13 of Downs). However, this does not related to the present invention as claimed.

Because neither Sasaki nor Downs, either alone or in combination, discloses, teaches or suggests all of the limitations of claims 1, 12, 23, 34 and 45, the rejection of those claims (and the claims that depend therefrom) is respectfully traversed.

Claim 56 was rejected under 35 U.S.C. §102 as being anticipated by Downs. This rejection is respectfully traversed.

Claim 56 recites "said content item transmitting means transmits the content item for an examining purpose together with the ID number to said distribution server." The Office Action states that Sasaki discloses this limitation.

In actuality, Sasaki fails to disclose transmitting the content item for an examining purpose. Sasaki discloses copying the digital work, and then transmitting a work ID and a device ID to the digital rights center (DRC). The DRC then evaluates whether the user associated with the device ID is registered for the digital work, and if so sends a license back to the user. At no time is the digital work transmitted to the DRC for an examining purpose.

Because Sasaki fails to disclose all of the limitations of claim 56, the rejection of claim 56 as being anticipated by Sasaki is respectfully traversed.

Claims 5, 16, 27, 38 and 49 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sasaki in view of Lin. This rejection is respectfully traversed.

Claim 5 depends from claim 1, claim 16 depends from claim 12, claim 27 depends from claim 23, claim 38 depends from claim 34, and claim 49 depends from claim 45. As acknowledged by the Office Action, Sasaki fails to disclose, teach or suggest "permitting creator registration on the basis of a judgment by an operator of the distribution server when the quality of the stored content item for an examining purpose is higher than a predetermined level," and also fails to disclose, teach or suggest "providing . . . an authoring tool to said creator terminal when permission for creator registration is given to said creator terminal," as recited in claims 1, 12, 23, 34 and 45.

Furthermore, Lin fails to make up for the deficiencies of Sasaki, because Lin fails to disclose permitting registration on the basis of a content quality evaluation, or an authoring tool of any sort.

Because neither Sasaki nor Lin, either alone or in combination, discloses, teaches or suggests all of the limitations of claims 1, 12, 23, 34 and 45, the rejection of claims 5, 16, 27, 38 and 49 (which depend from claims 1, 12, 23, 34 and 45) is respectfully traversed.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing Docket No. 393032027400. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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